

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>MILDRED W. FINCH, et al.,</b>	)	<b>CASE NO. 1:02 CV 132</b>
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>vs.</b>	)	<b>JUDGE SANDRA S. BECKWITH</b>
	)	
<b>GEORGE FIORINI, DBA FIORINI</b>	)	
<b>AGENCY, et al.,</b>	)	<b>MOTION OF DEFENDANT</b>
	)	<b>SANITEC, LTD. TO DISMISS</b>
<b>Defendants.</b>	)	<b>PLAINTIFF'S SECOND</b>
	)	<b>AMENDED COMPLAINT</b>

Defendant, Sanitec, Ltd. ("Limited"), moves to dismiss the Second Amended Complaint of Plaintiff, Mildred W. Finch ("Finch"). Finch's third version of the Complaint in this action utterly fails to state a claim against Limited upon which relief can be granted. Finch's Second Amended Complaint also violates Fed. R. Civ. P. 9(b) by not pleading her securities fraud and civil RICO claims with particularity. Accordingly, Finch's Complaint should be dismissed. Further, inasmuch as Finch has filed an original and two amended Complaints, the dismissal should be with prejudice. Further reasons in

support of this Motion are set forth in the attached Memorandum in Support of Motion of Defendant Sanitec, Ltd. to Dismiss Plaintiff's Second Amended Complaint.

Respectfully submitted,

/s/ Dan L. Makee

DAN L. MAKEE (0029602)

Trial Attorney

McDonald Hopkins Co., LPA

2100 Bank One Center

600 Superior Avenue, East

Cleveland, Ohio 44114-2653

Telephone: (216) 348-5400

Facsimile: (216) 348-5474

E-Mail: [dmakee@mcdonalddhopkins.com](mailto:dmakee@mcdonalddhopkins.com)

OF COUNSEL:

/s/ Richard J. Oparil

RICHARD J. OPARIL (D.C. Bar No. 409723)

Admitted Pro Hac Vice (11/19/03)

Patton Boggs LLP

2550 M Street, N.W.

Washington, DC 20037-1350

Telephone: (202) 457-6000

Facsimile: (202) 457-6315

E-Mail: [roparil@pattonboggs.com](mailto:roparil@pattonboggs.com)

Attorneys for Defendant Sanitec, Ltd.

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing Motion of Defendant Sanitec, Ltd. to Dismiss Plaintiff's Second Amended Complaint was filed electronically with this Court on this 12<sup>th</sup> day of December, 2003 and that all parties will be served via the Court's electronic filing system.

/s/ Dan L. Makee

DAN L. MAKEE (0020602)

McDonald Hopkins Co., LPA

An Attorney for Defendant Sanitec, Ltd.